

Gregory Mendoza  
Governor



Stephen Roe Lewis  
Lieutenant Governor

## GILA RIVER INDIAN COMMUNITY

### Executive Office

*"A New Generation of Leadership Serving the People"*

*e-mail  
from Tom Murphy  
dated 3/12/13*

Nancy Rumrill  
U.S. Environmental Protection Agency, Region 9 (WTR-9)  
75 Hawthorne Street  
San Francisco, CA 94105

**Re: Government-to-Government Consultation Regarding the Proposed Florence Copper Project**

Dear Ms. Rumrill:

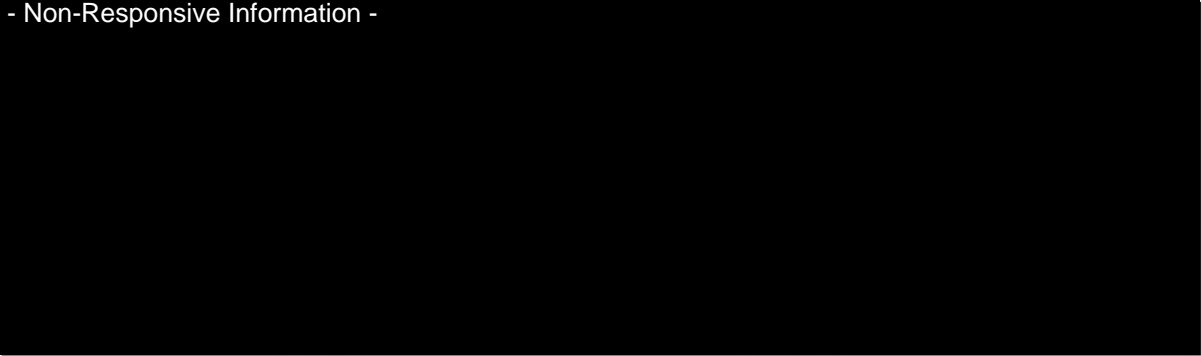
I am writing in response to U.S. EPA's February 11, 2013 letter regarding the proposed Florence Copper Project (the "Project"). The Gila River Indian Community (the "Community") appreciates the continued government-to-government consultation on the Project pursuant to both Section 106 of the National Historic Preservation Act and the *EPA Policy on Consultation and Coordination with Indian Tribes* (May 4, 2011). The Community similarly appreciates EPA's acknowledgement of its trust obligation regarding the Community's water rights, and recognition that decisions on the Project's UIC application must protect the Community's water resources, including its underground water allocation.

As EPA is likely aware, the Project could change significantly due to two recent actions by the Town of Florence. First, the Florence Town Council recently voted to condemn close to 1,200 acres from Curis Resources due to concerns regarding impacts to water supplies. The Town's concerns appear to go hand-in-hand with the Community's concerns. Second, in August 2012, the Florence Town Council passed an ordinance banning in-situ mining and other operations that use large amounts of sulfuric acid due to the potential danger that sulfuric acid poses to residents. Given these recent actions by the Town, the Community requests that EPA refrain from acting until Curis determines if and how it will proceed with its project, and until the impact of these changed circumstances are fully understood.

EPA's letter requests additional information regarding the relationship between the project and specific provisions of the Arizona Water Settlement Act. In order to better understand this relationship, the Community has scheduled a meeting for March 14, 2013 with the Arizona Department of Environmental Quality. Following that meeting, and after the Community is able to assess any project changes in light of the Town's condemnation decision, the Community will be in a better position to address your request and determine whether the Community believes that a second face-to-face consultation meeting is necessary.

Your letter, which copied the Community's Tribal Historic Preservation Officer (THPO), also requested information concerning the presence of and the Project's potential impacts to historic

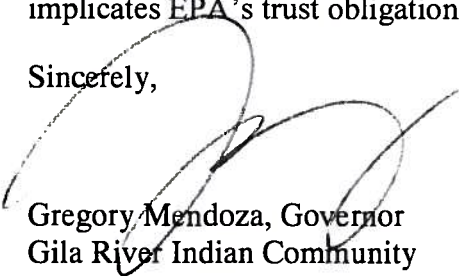
properties of cultural and religious importance to the Community. Our THPO has significant concerns regarding the project, which can be summarized as follows:

1. The EPA has identified the area of potential effect (APE) as the entire Curis Arizona Property Area, including all Arizona State Lands within the APE. The EPA will be evaluating direct and indirect effects to cultural resources for the entire Curis Property Area, including the Production Test Facility and support facilities that are located on Arizona State Lands.
2. - Non-Responsive Information -  

3. The THPO has not yet had the opportunity to review a revised treatment plan nor have we received any updated information regarding evaluation of the impacts to cultural resources located within the Curis property, and therefore the THPO still has significant concerns regarding the Project. The blanket cultural resource treatment plan indicates that there will be infrastructure and utilities improvements associated with Phase 1 of the Curis project that are located outside of the Curis property area. There is no information in the treatment plan about the location or nature of these improvements.
4. We request that a written description of the new proposed infrastructure and utility improvements outside of the Curis property be provided to all consulting parties. The effects of the infrastructure and utility improvements to historic properties outside of the Curis property must be identified and evaluated.
5. The EPA does not appear to have completed the historic properties identification and evaluation step of the Section 106 process. The blanket treatment plan indicates that eligibility testing and non-site testing are planned. Eligibility testing and non-site testing should be part of the historic property identification effort and not part of an historic properties treatment plan. No copies of the report *Review of Existing Survey Data for Proposed Florence in Situ Mine Project Test Wells* or site re-visit reports have been available for review. We request copies of those reports for THPO review and records. An assessment of the need for additional archaeological survey within the APE needs to be included in the requested reports.
6. It is the opinion of the THPO that the undertaking will result in an adverse effect under Section 106, and therefore anticipates the need for a Memorandum of Agreement (MOA) to resolve the adverse effects.

7. The blanket treatment plan did not contain information to adequately evaluate the impacts to historic properties within the APE. National Register eligible sites could be adversely affected. A revised treatment plan would address all impacts and effects to all sites resulting from Phase 1 activities: well drilling, well operations, temporary plant construction, pond construction, above-ground pipeline installation, power line installation, well relocation and closure, security fencing and other utility and infrastructure upgrades outside the Curis property. A revised treatment plan should also discuss impacts to historic properties resulting from project closure in the event Phase 2 is not implemented.
8. The blanket treatment plan does not adequately connect or put into context the historic properties identified within the APE to the historic context or research design, and does not contain site specific treatment plans. A revised treatment plan for Phase 1 will be needed to address these comments.
9. The blanket treatment plan contains contradictory treatment methods. For example, the blanket treatment plan states that upper architectural fill may not be screened, but also that special care will be taken to identify later components with architectural features. How will the decision to screen or not to screen be made?
10. The reporting schedule and deliverable schedules are not adequate. Preliminary and final reports for each property subject to data recovery will be completed and submitted for review. Scheduling and content of report(s) will be stipulated within the anticipated draft MOA.
11. The blanket treatment plan indicates that the boundaries for some sites would be established based upon surface manifestations of artifacts and features. Archaeological testing may be necessary to establish site boundaries.
12. Please provide clear readable maps for review. Project maps should only show Phase 1 activities.

As EPA continues to move forward in its decision-making on the Project, the Community requests that government-to-government consultation continue before EPA makes any final decision on the proposed permit that could impact the Community's water resources, and thus implicates EPA's trust obligations.

Sincerely,



Gregory Mendoza, Governor  
Gila River Indian Community

Cc: Cathy Wilson, Bureau of Indian Affairs.